

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1463 - SB 1506

March 12, 2019

SUMMARY OF ORIGINAL BILL: Enhances the offense of vehicular homicide to aggravated vehicular homicide, if, at the time of the offense, the defendant's blood includes any amount or active metabolite of a Schedule I or Schedule II controlled substance, and the person has previously been convicted of driving under the influence of an intoxicant or vehicular assault.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$455,400 Incarceration*

SUMMARY OF AMENDMENT (005459): Deletes and replaces all language after the enacting clause such that the only substantive change is to specify that the active metabolite of a Schedule I or Schedule II controlled substance detected in the defendant's bloodstream contributed to the defendant's intoxication.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – \$401,700 Incarceration*

Assumptions for the bill as amended:

- According to the National Highway Traffic Safety Administration's *DWI Recidivism in the United States: An Examination of State-Level Driver Data and the Effect of Look-Back Periods on Recidivism Prevalence* research note, as of March 2014, 25 percent of all drivers arrested for driving while intoxicated were repeat offenders.
- This analysis estimates that 25 percent of vehicular homicide by intoxication and vehicular homicide offenders will be repeat offenders.
- Pursuant to Tenn. Code Ann. § 39-13-218(d), aggravated vehicular homicide is a Class A felony.
- The average time served for a Class A felony is 18.67 years.

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- Based on information provided by the Department of Correction (DOC), there has been an average 32.4 admissions each year over the past five years for vehicular homicide by intoxication, a Class B felony offense.
- This analysis estimates that 8.1 offenders (32.4 x 25%) will be repeat offenders.
- This analysis estimates that seven percent, or one admission (8.1 x 7%) will result from a defendant's blood including any amount or an active metabolite of a Schedule I or Schedule II controlled substance that contributed to the defendant's intoxication and be enhanced to aggravated vehicular homicide each year.
- Population growth and recidivism will not impact these admissions.
- The average time served for a class B felony is 6.65 years.
- The proposed legislation will result in each admission serving an additional years 12.02 years (18.67 – 6.65).
- According to the DOC, the average operating cost per offender per day for calendar year 2019 is \$73.18.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender admitted every year serving an additional 12.02 years (4,390.31 days) for an annualized increase in state incarceration expenditures of \$321,283 (\$73.18 x 4,390.31).
- Based on information provided by DOC, there has been an average 10.6 admissions each year over the past five years for vehicular homicide, a Class C felony offense.
- This analysis estimates that 2.7 offenders (10.6 x 25%) will be repeat time offenders.
- This analysis estimates that one admission every five years will result from a defendant's blood including any amount or an active metabolite of a Schedule I or Schedule II controlled substance that contributed to the defendant's intoxication and be enhanced to aggravated vehicular homicide.
- Population growth and recidivism will not impact these admissions.
- The average time served for a class C felony is 3.62 years.
- The proposed legislation will result in each admission serving an additional years 15.05 years (18.67 – 3.62).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender admitted every five years serving an additional 15.05 years (5,497.01 days) for an annualized increase in state incarceration expenditures of \$80,454 [(\$73.18 x 5,497.01) /5].
- The total recurring increase in incarceration expenditures resulting from the proposed legislation is estimated to be \$401,737 (\$321,283 + \$80,454).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid, with the first letters of each name being capitalized and prominent.

Krista Lee Carsner, Executive Director

/amj